

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36686
Docket No. SG-36397
03-3-00-3-653

The Third Division consisted of the regular members and in addition Referee Dana Edward Eischen when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Chicago and
(Eastern Illinois Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Co. (formerly C&EI):

Claim on behalf of E. A. Jarvis, R. A. Blacketer, N. L. Blakley, D. J. Norman, J. L. Denny, S. W. Denny, M. L. Eldridge, J. E. Batton, J. M. Phillips, L. R. Cundiff, V. P. Thomas, M. R. Heck, T. A. Reed, R. J. Birkenfeld, S. F. Sievers, and A. E. Sheppard, for payment of \$1,482.82 each. Account Carrier violated the current Signalmen's Agreement, particularly Rules 1, 10, 37, 38 and 39; the 'Flexibility Agreement' dated December 14, 1998; and CSXT Labor Agreement No. 15-60-95. Beginning on June 14, 1999 and continuing, Carrier allowed employees assigned to the former B&O Railroad to perform work on Claimants' assigned property and deprived the Claimants of the opportunity to perform this work. Carrier also violated Rule 54 of the current Agreement when the designated Carrier Officer failed to respond to the initial claim in a timely fashion. Carrier's File No. 15 (00-0002). General Chairman's File No. 99-25-03. BRS File Case No. 11453-C&EI.”

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

On the merits, this claim is an exact duplicate of a claim (NRAB Case No. 00-3-584), previously filed on August 10, 1999, which was denied by the Board in Third Division Award 36681. The only distinguishing feature of the instant case is the Organization's plea that this duplicate claim must be "paid as presented," based on the allegation that, after denying the August 10, 1999 claim, District Signal Engineer E. M. Witherspoon failed to answer the September 20, 1999 duplicate claim within the time limits prescribed in Rule 54 - Time Limits for Handling Claims.

It is well understood by knowledgeable practitioners that the Time Limit Rules for grievance processing are strictly construed by the Board and the penalty for noncompliance is severe. For that reason we reiterate herein the admonition of Third Division Award 25856:

"The Carrier is cautioned, however, that under the time limit Rules it is required to respond to Claims within the time limits specified, even though it may consider the Claims involved as barred or otherwise defective."

But in the facts of this record, where the Organization representative piled on a duplicate claim of an already denied claim for a specific time period, mislabeled as

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a "continuing claim," we are persuaded that the holding of Third Division Award 30007 must govern:

"Assuming, arguendo, that the claim had been timely filed, close examination of the record shows that the duplicate file number which the Organization assigned to two claims, was sufficiently confusing to justify Carrier's belief that it had already denied the later submitted claim."

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 18th day of August 2003.